

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IMRAN KHAN, et al.,

Plaintiff,

v.

BOARD OF DIRECTORS OF PENTEGRA
DEFINED CONTRIBUTION PLAN, et al.,

Defendants.
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ORDER

20-CV-07561 (PMH)

[Rel. 20-CV-08503 (PMH)]

PHILIP M. HALPERN, United States District Judge:

Counsel for all parties in this action and the related action *Greenberg v. Bd. of Dirs. of Pentegra Defined Contribution Plan*, 20-cv-08503-PMH, appeared telephonically at 10:30 a.m. today for a pre-motion conference. The Court construes defendants' pre-motion letter-motion for permission to move for consolidation as a motion to consolidate these cases (Doc. 56). *See In re Best Payphones, Inc.*, 450 F. App'x 8, 15 (2d Cir. 2011). Having considered the written responses thereto by the *Khan* and *Greenberg* plaintiffs, and the parties' argument at the conference today, for the reasons discussed on the record and the case law cited therein, the Court GRANTS defendants' request to consolidate these cases pursuant to Federal Rule of Civil Procedure 42(a), and hereby consolidates the action entitled *Greenberg, et al. v. Pentegra Services, Inc., et al.*, 20-cv-08503-PMH, into the action entitled *Khan et al v. Bd. of Dirs. of Pentegra Defined Contribution Plan et al.*, 20-cv-07561-PMH. Unless otherwise ordered by this Court, future filings shall be filed and docketed only under docket number 20-cv-07561-PMH.

In connection therewith, for the reasons discussed on the record and the case law cited therein, the Court directs counsel for all plaintiffs to meet and confer and file a Consolidated Amended Complaint by 12/28/2020. Counsel is reminded of the Court's direction to reduce the footprint of the pleading to only that which is necessary and relevant to the burden of proof. By

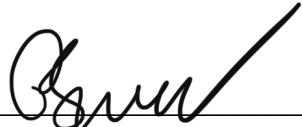
1/11/2021, defendants shall file via ECF: a letter advising that they intend to press their pre-motion conference letter concerning their anticipated motion to dismiss (Doc. 59); a new pre-motion conference letter addressed to the Consolidated Amended Complaint; or an answer to the Consolidated Amended Complaint. In the event that defendants file a new pre-motion conference letter, plaintiffs' response thereto shall be filed by 1/19/2021, and the Court will thereafter set a briefing schedule for the motion to dismiss. Defendants need not respond to the constituent complaints that are the subject of this consolidation Order.

With respect to the pending motion for the appointment of Schlichter Bogard & Denton LLP as interim lead class counsel (Doc. 60), the *Greenberg* plaintiffs' opposition thereto and motion in support of the appointment of Capozzi Adler, P.C. is due by 12/18/2020. The *Khan* plaintiffs' opposition to the motion in support of the appointment of Capozzi Adler, P.C., and defendants' opposition to both motions, is due by 12/28/2020. As discussed on the record, the parties shall also address their briefing to the issue of the appointment of both firms as co-counsel. No replies will be permitted.

The parties are reminded to review and comply with my Individual Practices, the most current version of which can be downloaded from my individual webpage on the S.D.N.Y. website at <https://nysd.uscourts.gov/hon-philip-m-halpern>. Also available at that website is the Civil Case Discovery Plan and Scheduling Order that was discussed during the conference today.

SO ORDERED:

Dated: New York, New York
December 11, 2020



Philip M. Halpern
United States District Judge